THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, the 26th day of March,2007

W.P.No.16199 of 1996

Between:-

A.P. Electrical Equipment
Corporation, Ashok Marg,
Sanathnagar, Hyderabad,
rep. by its Chief Executive
Sri K.C. Kabra … Petitioner

and

Sri M.S. Chary, H.No.8-3-881,
Yellareddyguda, Srinagar
Colony, Hyderabad and another … Respondents

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ORAL ORDER:

This Writ Petition is filed challenging the Order dated 16-5-1996 passed in M.P.No.42 of 1994 on the file of Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

Respondent No.1 is the workman and the writ petitioner is the Management.

Respondent No.1 earlier raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') in I.D.No.240 of 1993 challenging the order of removal from service. The said I.D. was answered in his favour directing the Management to reinstate him with continuity of service by an Award dated 28-8-1993. The Award was published in the gazette on 22-11-1993 and thus it became enforceable after one month i.e. 22-12-1993. According to the respondent-workman, he had sent representations under Ex.W2, dated 22-11-1993, Ex.W3, dated 15-12-1993, Ex.W4, dated 4-3-1994 and Exs.W5 and W6, dated 5-5-1994 to the Management requesting them to take him on duty by enclosing the Award passed by the Labour Court in I.D.No.240 of 1993, dated 28-8-1993 and in spite of that, he was not reinstated into service and ultimately, he was reinstated only on 11-11-1994. Therefore, he is entitled for wages from 22-12-1993 till 10-11-1994. The Management filed a counter saying that a reply was sent under Ex.M1 to Ex.W3 on 24-12-1993 asking the workman to report for duty and also Ex.M3-letter dated 12-5-1994 in response to Ex.W5-letter dated 5-5-1994 as per Ex.M4-certificate of posting, but the workman himself did not report for duty.

The Labour Court, after a detailed consideration of the entire evidence on record, came to the conclusion that the workman is entitled to the wages for the period from 23-12-1993 to 10-11-1994 and also incentive at Rs.135/- per month for the said period; however, his claim for leaves and old dues was rejected. Challenging the same, the present Writ Petition is filed by the Management.

Heard both sides.

The Management except asserting that the letters were sent through certificate of posting, no positive evidence was adduced, such as, despatch register, postal account or the account book showing the amount spent for sending those two letters and thus, the Tribunal disbelieved the contention of the Management and directed to pay the salary and other amounts for the period from 22-12-1993 to 11-11-1994. I am of the opinion that the Tribunal has not committed any error in coming to the conclusion that the workman is entitled for wages for the period from 22-12-1993 to 10-11-1994 and also incentive at Rs.135/- per month for the said period. In fact, absolutely, there is no evidence adduced by the Management before the Tribunal to come to a different conclusion. The Writ Petition is devoid of merits and is liable to be dismissed. However, if any amount is lying to the credit I.D., before the Labour court, the respondent-workman is at liberty to withdraw the same, without furnishing any security and for the rest of the amount, the workman can take steps for execution of the Order passed by the Labour Court under Section 33-C(2) of the Act.

Accordingly, the Writ Petition is dismissed. No order as to costs.

26-3-2007

prk